

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability  
Litigation

No. 2:15-MD-02641-DGC

**[PROPOSED]**  
**CASE MANAGEMENT ORDER NO. \_\_\_\_**  
**(Deposition Protocols)**

THIS DOCUMENT RELATES TO ALL CASES

Pursuant to the parties' agreement, it is **ORDERED** that the following deposition protocols shall be followed in depositions conducted in the above-referenced MDL.

A. Deposition Notices

1. This Order applies to all depositions in MDL-2641, which will be noticed and conducted pursuant to Fed. R. Civ. P. ("FRCP") 30 and this Order.

2. This Order, in its entirety, shall be attached to any non-party subpoena or deposition notice.

B. Cross-Notices Between State Court Cases and These Proceedings

Any depositions originally noticed in this MDL may be cross-noticed in any state court cases pending at the time of the deposition.

C. Number of Depositions Allowed

Any Federal Rule of Civil Procedure and/or Local Rule purporting to limit the number of depositions shall not apply in this MDL proceeding. If either side believes that the other is taking unnecessary or irrelevant depositions they may bring the issue to the Court for appropriate resolution, after first making a good faith effort to resolve the issue without the Court's involvement.

1 D. Scheduling of Depositions

2 1. Absent extraordinary circumstances, counsel shall cooperate with opposing  
3 counsel and counsel for proposed deponents in an effort to schedule depositions at  
4 mutually convenient times and locations in accordance with the schedule established in  
5 this case.

6 2. Lead and Liaison Counsel shall be responsible for providing posted notice  
7 of any deposition in this MDL to counsel.

8 E. Location of Depositions

9 The parties shall endeavor to schedule all depositions at locations within a  
10 reasonable distance from the place of residence of the deponent, or at such other location  
11 as is agreed to by all counsel involved and the deponent.

12 F. Attendance at Deposition

13 1. In order to arrange for adequate deposition space, counsel wishing to attend  
14 in person a deposition noticed in MDL-2641 shall provide notice to Plaintiffs' Co-Lead  
15 Counsel or Defendants' Lead Counsel of their intention to attend in person three days in  
16 advance of the deposition. Plaintiffs' Co-Lead Counsel and Defendants' Lead Counsel  
17 shall consult two days prior to the deposition to ensure that there is adequate space for the  
18 deposition.

19 2. In the event that a party wishes to participate in a deposition remotely, that  
20 is, either by telephone or internet, that party shall notify the party noticing the deposition  
21 (either Plaintiff' Co-Lead Counsel or Defendants' Lead Counsel) two days in advance of  
22 the start of the deposition and make the arrangements necessary to participate in the  
23 deposition. Any party seeking to participate remotely must agree to be bound by  
24 applicable Protective Order in this case and agree not to re-record the deposition, by video  
25 or audio means.

26 3. While a deponent is being examined about any information subject to the  
27 Protective Order entered in this litigation, persons to whom disclosure is not authorized  
28 shall be excluded whether in person or telephonically.

1     G.     Conduct of Depositions

2             1.       There should ordinarily be no more than two examining attorneys per side,  
3     who shall confer prior to the deposition regarding the allocation of time to question.  
4     Counsel for Plaintiffs shall cooperate so that examinations by multiple attorneys for the  
5     MDL do not exceed the allotted time. Under no circumstances will Plaintiffs' failure to  
6     allocate time among themselves (or to enforce such an allocation during the deposition)  
7     result in the extension of a deposition.

8             2.       All deposition objections are reserved, except as to the form of the question  
9     and the answer. Counsel shall otherwise comply with Fed. R. Civ. P. 30(c)(2) concerning  
10    objections at depositions. An objection by one party reserves the objection for all parties.

11    H.     Duration and Time Allocation of Deposition

12            1.       The time limitations on depositions imposed by Fed. R. Civ. P. 30(d)(1)  
13    shall apply in the MDL unless the parties agree to a different time limitation in the MDL  
14    or the Court establishes a different time limitation in this Order or for a particular  
15    deposition or depositions. The Parties shall negotiate in good faith regarding any request  
16    by any Party for an extended length of time for a particular deposition. If the Parties  
17    cannot agree on the length of a deposition, a Party may move for an extension of the seven  
18    hour limit; provided that in no event may a deposition last more than seven hours in a  
19    given day absent agreement of counsel or order of this Court.

20            2.       The party noticing the deposition of an opposing party, its officers, present  
21    employees, present agents, and present consultants shall be entitled to the full time  
22    allowed under Fed. R. Civ. P 30(d)(1). The deposed party (or party whose officers,  
23    employees, or agents are deposed) may extend the deposition beyond the time allowed  
24    under Fed. R. Civ. P 30(d)(1) in order to examine the witness; however, the noticing party  
25    shall presumptively be entitled to an additional amount of deposition time equal to half the  
26    time used by the extending party.

27            3.       For the depositions of former employees, agents, or consultants of Bard both  
28    sides shall have the opportunity to examine the witnesses on common issues for up to a

1 total of eight (8) hours. The deposition time shall be allocated as follows: six (6) hours to  
2 Plaintiffs, and two (2) hours to Bard. If Bard believes unusual circumstances exist to alter  
3 the allocation of time, it shall notify Plaintiffs' Co-Lead Counsel not later than ten (10)  
4 days prior to the deposition date and the parties shall meet and confer as to whether to  
5 reallocate time and, if so, on the reallocation.

6 4. For all other fact witnesses, both sides shall have equal time to examine the  
7 witnesses.

8 5. Depositions should normally be completed by no later than 7:30 p.m. on the  
9 date noticed. If for some reason the deposition cannot be completed by 7:30 p.m., the  
10 parties and the witness may agree to extend the deposition beyond 7:30 p.m. However, if  
11 both parties and the witness are not in agreement to extend the deposition beyond 7:30  
12 p.m., the parties and witness shall meet and confer regarding the date and time for  
13 completion of the deposition.

14 I. Supplemental Depositions

15 Each Party not present or represented at a deposition (including parties later added  
16 and parties in cases subsequently filed in, removed to, or transferred to this Court) may,  
17 within thirty (30) days after the delivery of the deposition transcript by the court reporter  
18 (or within sixty (60) days after becoming a party in this Court in any action that is a part  
19 of this litigation), request permission to conduct a supplemental deposition of the  
20 deponent. If permitted, the deposition shall be treated as the resumption of the deposition  
21 originally noticed. Supplemental depositions may not be taken without leave of court or  
22 agreement of the parties.

23 J. Deposition Disputes

24 Disputes arising during depositions that cannot be resolved by agreement and that,  
25 if not immediately resolved, will significantly disrupt the discovery schedule, require  
26 rescheduling of the deposition, or possibly result in the need to conduct a supplemental  
27 deposition, shall be presented to the Court by telephone. In the event the Court is not  
28 available, the parties will continue with the deposition making a full reservation of rights

1 on the record concerning the dispute at issue to preserve it for a ruling by the Court at the  
2 earliest possible time.

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